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DEPARTMENT OF COMMERCE

International Trade Administration

A-552-801

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Amended Final Results of Antidumping Duty Administrative Review; 2010-2011

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the “Department”) is amending the final results of the eighth administrative review and aligned new shipper reviews on certain frozen fish fillets (“fish fillets”) from the Socialist Republic of Vietnam (“Vietnam”) to correct certain ministerial errors.¹ The period of review (“POR”) is August 1, 2010, through July 31, 2011.

EFFECTIVE DATE: (Insert date of publication in the *Federal Register*).

FOR FURTHER INFORMATION CONTACT: Paul Walker (Anvifish), Susan Pulongbarit (Vinh Hoan), Alex Montoro (An Phu and GODACO) or Seth Isenberg (Docifish), AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S.

Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone 202-482-0413, 202-482-4031, 202-482-0238, or 202-482-0588, respectively.

¹ See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews; 2010-2011*, 78 FR 17350 (March 21, 2013) (“*Final Results*”).

SUPPLEMENTARY INFORMATION:

Background

On March 15, 2013 the Department disclosed to interested parties its calculations for the *Final Results*. Between March 20, and March 25, 2013, we received ministerial error comments and rebuttal comments from interested parties.²

Scope of the Order

For a full description of the products covered by the antidumping duty order, *see* Memorandum to Paul Piquado, Assistant Secretary for Import Administration, through Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, from James C. Doyle, Director, Office 9, “Eighth Administrative Review and Aligned New Shipper Reviews of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Ministerial Error Allegation Memorandum,” dated concurrently with this notice (“Ministerial Error Memo”), which is incorporated by reference.

Ministerial Errors

Section 751(h) of the Tariff Act of 1930, as amended (the “Act”), and 19 CFR 351.224(f) define a “ministerial error” as an error “in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any similar type of unintentional error which the Secretary considers ministerial.” After analyzing interested parties’ ministerial error comments, we have determined, in accordance with section 751(h) of the Act and 19 CFR 351.224(e), that we made the following ministerial errors in our calculations for the *Final Results*: (a) we unintentionally mislabeled Anvifish’s whole fish usage rate; (b) we

² The interested parties include: The Catfish Farmers of America, and individual U.S. catfish processors (collectively “Petitioners”), An Phu Seafood Corporation (“An Phu”), Anvifish Joint Stock Company (“Anvifish”), Docifish Corporation (“DOCIFISH”), Godaco Seafood Joint Stock Company (“GODACO”), and Vinh Hoan Corporation (“Vinh Hoan”).

inadvertently miscalculated Docifish's diesel fuel consumption; and (c) we unintentionally included returned sales in Anvifish's and Vinh Hoan's margin calculations. For a detailed discussion of all alleged ministerial errors, as well as the Department's analysis, *see* the Ministerial Error Memo.

In accordance with section 751(h) of the Act and 19 CFR 351.224(e), we are amending the *Final Results* of the administrative review of fish fillets from Vietnam. The revised weighted-average dumping margins are detailed below.

Amended Final Results of the Administrative Review

The amended weighted-average dumping margins for the administrative review are as follows:

Exporter	Weighted-Average Margin (USD/ kg)³
Vinh Hoan Corporation ⁴	0.19
Anvifish Joint Stock Company ⁵	2.39
An Giang Agriculture and Food Import-Export Joint Stock Company	1.29
Asia Commerce Fisheries Joint Stock Company	1.29
Binh An Seafood Joint Stock Company	1.29
Cadovimex II Seafood Import-Export and Processing Joint Stock Company	1.29

³ In the third administrative review of the order, the Department determined that it would calculate per-unit assessment and cash deposit rates for all future reviews. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and Partial Rescission*, 73 FR 15479, 15480-81 (March 24, 2008).

⁴ This rate is applicable to the Vinh Hoan Group, which includes Vinh Hoan, Van Duc Food Export Joint Company and Van Duc Tien Giang. In the sixth review of the order, the Department found Vinh Hoan, Van Duc, and VDTG to be a single entity. *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Notice of Preliminary Results and Partial Rescission of the Sixth Antidumping Duty Administrative Review and Sixth New Shipper Review*, 75 FR 56062, 56068 (September 15, 2010). Because there has been no evidence submitted since that review which would call this determination into question, we continue to find these companies to be part of a single entity. Therefore, we will assign this rate to the companies in the single entity.

⁵ Includes the trade name Anvifish Co., Ltd.

Exporter	Weighted-Average Margin (USD/ kg)³
Hiep Thanh Seafood Joint Stock Company	1.29
Hung Vuong Corporation	1.29
Nam Viet Corporation	1.29
NTSF Seafoods Joint Stock Company	1.29
QVD Food Company Ltd. ⁶	1.29
Saigon Mekong Fishery Co., Ltd.	1.29
Southern Fisheries Industries Company Ltd.	1.29
Vinh Quang Fisheries Corporation	1.29
Vietnam-Wide Rate ⁷	2.11 ⁸

Disclosure

We will disclose the calculations performed for these amended final results to interested parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department will determine, and U.S. Customs and Border Protection (“CBP”) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the amended final results of this review. The Department intends to issue appropriate assessment instructions directly to CBP

⁶ This rate is also applicable to QVD Dong Thap Food Co., Ltd (“Dong Thap”) and Thuan Hung Co., Ltd. (“THUFICO”). In the second review of this order, the Department found QVD Food Company Limited, Dong Thap and THUFICO to be a single entity and, because there have been no changes to this determination since that administrative review, we continue to find these companies to be part of a single entity. Therefore, we will assign this rate to the companies in the single entity. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 53387 (September 11, 2006).

⁷ The Vietnam-wide rate includes the following companies which are under review, but which did not submit a separate rate application or certification: Nam Viet Company Limited; East Sea Seafoods Joint Venture Co., Ltd.; and Vinh Hoan Company, Ltd.

⁸ The rate for the Vietnam-wide entity did not change from the *Final Results*.

15 days after publication of the amended final results of this administrative review and new shipper reviews. However, on April 9, 17 and 23, 2013, the U.S. Court of International Trade issued preliminary injunctions enjoining liquidation of certain entries made during the POR which are subject to the antidumping duty order on fish fillets from Vietnam.⁹ Accordingly, the Department will not issue assessment instructions to CBP for any entries subject to the above-mentioned injunctions after publication of this notice.

For assessment purposes, we calculated importer (or customer)-specific assessment rates for merchandise subject to this review. We will continue to direct CBP to assess importer-specific assessment rates based on the resulting per-unit (*i.e.*, per-kg) rates by the weight in kilograms of each entry of the subject merchandise during the POR. Specifically, we calculated importer-specific duty assessment rates on a per-unit rate basis by dividing the total dumping margins (calculated as the difference between normal value and export price, or constructed export price) for each importer by the total sales quantity of subject merchandise sold to that importer during the POR. If an importer (or customer)-specific assessment rate is *de minimis* (*i.e.*, less than 0.50 percent), the Department will instruct CBP to assess that importer (or customer's) entries of subject merchandise without regard to antidumping duties, in accordance with 19 CFR 351.106(c)(2).

Cash Deposit Requirements

The following cash deposit requirements will be effective retroactively on any entries made after March 21, 2013, the date of publication of the *Final Results*, for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the amended final results of this administrative review, as provided for by

⁹ See *Anvifish Joint Stock Company v. United States*, CIT Court No. 13-00138, dated April 9, 2013; *Vietnam Association of Seafood Exporters and Producers v. United States*, CIT Court No. 13-141, dated April 17, 2013; *Binh An Seafood Joint Stock Company v. United States*, CIT Court No. 13-155, dated April 23, 2013.

section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be the rate established in the amended final results of review (except, if the rate is zero or *de minimis*, i.e., less than 0.5 percent, a zero cash deposit rate will be required for that company); (2) for previously investigated or reviewed Vietnamese and non-Vietnamese exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all Vietnamese exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the Vietnam-wide rate of 2.11 USD/kg; and (4) for all non-Vietnamese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Vietnamese exporters that supplied that non-Vietnamese exporter. The deposit requirements, when imposed, shall remain in effect until further notice.

Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby

requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

These amended final results are published in accordance with sections 751(h) and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

May 9, 2013
Date

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